

MEMORANDUM

December 19, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: HURRELL AND CANTRELL
Tom Hurrell

ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RE: Michael Nielsen v. County of Los Angeles
United States District Court Case No. CV 05-08429

DATE OF
INCIDENT: September 1, 2004

AUTHORITY
REQUESTED: \$25,000

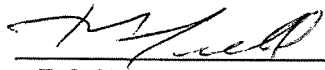
COUNTY
DEPARTMENT: Sheriff's Department


CLAIMS BOARD ACTION:

☒ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval


_____, Chief Administrative Office
ROCKY A. ARMFIELD


_____, County Counsel
JOHN F. KRATTLI


_____, Auditor-Controller
MARIA M. OMS

on December 27, 2006

SUMMARY

This is a recommendation to settle for \$25,000 a federal civil rights lawsuit filed by Michael Nielsen who claims he was falsely arrested and subjected to excessive force by Sheriff's Deputies.

LEGAL PRINCIPLES

It is a violation of federal civil rights for a peace officer to arrest someone without probable cause and to use more force than is necessary to effect an arrest, prevent an escape or overcome resistance.

SUMMARY OF FACTS

On September 1, 2004, Sheriff's Deputies from the Lancaster Station were providing security at the Antelope Valley Fair. A patron reported to one of the Deputies that a person at the on-site concert was cursing at patrons and causing a disturbance. Deputies approached Mr. Nielsen, who fit the description provided by the reporting party. Mr. Nielsen was holding two beers, appeared to be intoxicated and was argumentative with the Deputies.

The Deputies formed the opinion that Mr. Nielsen was intoxicated and arrested him. Mr. Nielsen was handcuffed and taken to the fairground's Sheriff's Office. He was released about 90 minutes later to his fiancée and mother, and was not charged with any crime.

Mr. Nielsen subsequently sued the County and the Deputies for false arrest. He also claimed that he was subjected to excessive force during the handcuffing and that his healing broken wrist was re-broken.

DAMAGES

Should this matter proceed to trial, we estimate that the potential damages could be as follows:

Medical expenses	\$ 1,000
Loss of earnings	\$ 5,000
Litigation costs	\$ 10,000
Attorneys' fees	<u>\$100,000</u>
Total	<u>\$116,000</u>

The proposed settlement calls for the County to pay \$25,000 for all of Mr. Nielsen's claims for damages, costs, and attorneys' fees.

STATUS OF CASE

Mr. Nielsen's original demand was \$1.8 million. He was subsequently killed in a sky diving accident. His wife continued to pursue the case on his behalf, and the demand was lowered to \$400,000. At a settlement conference with a United States Magistrate, the proposed settlement was reached.

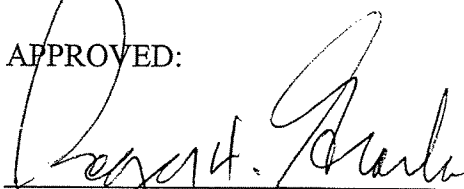
Expenses incurred by the County in defense of this action are attorneys' fees of \$69,674 and \$25,377 in costs.

EVALUATION

This is a case of disputed liability. We believe the evidence would show that the Deputies had probable cause for the brief arrest and used minimal force during the arrest. However, our attorneys confirmed that the incident did aggravate Mr. Nielsen's broken wrist and caused it to take two additional weeks to heal.

A reasonable settlement at this time will save further litigation costs and avoid a potential jury verdict, which along with an award of attorneys' fees and costs, would likely exceed the proposed settlement.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

RHG:scr